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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No. 150316270-5270-01]

RIN 0648-XE259

Fisheries Off West Coast States; Modifications of the West Coast Commercial and Recreational Salmon Fisheries; Inseason Actions #37 through #39

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Modification of fishing seasons; request for comments.

SUMMARY: NMFS announces three inseason actions in the ocean salmon fisheries. These inseason actions modified the commercial salmon fisheries in the area from the U.S./Canada border to Humboldt South Jetty, CA.

DATES: The effective dates for the inseason actions are set out in this document under the heading Inseason Actions. Comments will be accepted through *[insert date 15 days after date of publication in the FEDERAL REGISTER]*.

ADDRESSES: You may submit comments, identified by NOAA-NMFS-2015-0001, by any one of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal eRulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2015-0001, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* William W. Stelle, Jr., Regional Administrator, West Coast Region,
NMFS, 7600 Sand Point Way NE, Seattle, WA, 98115-6349

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Peggy Mundy at 206-526-4323.

SUPPLEMENTARY INFORMATION:

Background

In the 2015 annual management measures for ocean salmon fisheries (80 FR 25611, May 5, 2015), NMFS announced the commercial and recreational fisheries in the area from the U.S./Canada border to the U.S./Mexico border, beginning May 1, 2015, and 2016 salmon fisheries opening earlier than May 1, 2016. NMFS is authorized to implement inseason management actions to modify fishing seasons and quotas as necessary to provide fishing opportunity while meeting management objectives for the affected species (50 CFR 660.409). Inseason actions in the salmon fishery may be taken directly by NMFS (50 CFR 660.409(a) – Fixed inseason management provisions) or upon consultation with the Pacific Fishery Management Council (Council) and the appropriate State Directors (50 CFR 660.409(b) – Flexible inseason management provisions). The state management agencies that participated in the consultations described in this document were: California Department of Fish and Wildlife

(CDFW), Oregon Department of Fish and Wildlife (ODFW), and Washington Department of Fish and Wildlife (WDFW).

Management of the salmon fisheries is generally divided into two geographic areas: north of Cape Falcon (U.S./Canada border to Cape Falcon, OR) and south of Cape Falcon (Cape Falcon, OR, to the U.S./Mexico border). The inseason actions reported in this document affect fisheries north and south of Cape Falcon. Within the south of Cape Falcon area, the Klamath Management Zone (KMZ) extends from Humbug Mountain, OR, to Humboldt South Jetty, CA, and is divided at the Oregon/California border into the Oregon KMZ to the north and California KMZ to the south. All times mentioned refer to Pacific daylight time.

Inseason Actions

Inseason Action #37

Description of action: Inseason action #37 adjusted the remaining coho quota in the commercial salmon fishery from Queets River, WA, to Cape Falcon, OR, on an impact-neutral basis, from mark-selective to non-mark-selective. The adjusted non-mark-selective coho quota was 6,100.

Effective dates: Inseason action #37 took effect on September 18, 2015, and remained in effect until the end of the commercial salmon fishing season.

Reason and authorization for the action: The purpose of this action was to allow for increased access to the coho quota, which had not been fully utilized, while not exceeding the impact limits for protected stocks. The annual management measures (80 FR 25611, May 5, 2015) provide for inseason action to modify the regulations that restrict retention of unmarked coho. To accommodate modifying the regulations from a mark-selective to non-mark-selective coho fishery while still achieving management objectives, including not exceeding allowable

impacts on constraining stocks, the Council's Salmon Technical Team (STT) calculated the necessary adjustments to the coho quota on an impact-neutral basis for the constraining stocks in the Queets River to Cape Falcon area. In this instance, the constraining stock was Lower Columbia River natural coho. The RA approved the STT's impact-neutral conversion of the remaining recreational mark-selective coho quota to non-mark-selective coho quota.

Modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #37 occurred on September 17, 2015. Participants in this consultation were staff from NMFS, WDFW, and ODFW. Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

Inseason Action #38

Description of action: Inseason action #38 modified landing and possession limits in the commercial salmon fishery between Queets River and Cape Falcon to allow retention of 80 non-mark-selective coho per vessel per open period. The previous landing limit for coho was 50 marked coho per vessel per open period.

Effective dates: Inseason action #38 took effect on September 18, 2015, and remained in effect until the end of the commercial salmon fishing season.

Reason and authorization for the action: The purpose of this action was to allow for increased access to the coho quota, which had not been fully utilized, while not exceeding the impact limits for protected stocks. The annual management measures (80 FR 25611, May 5, 2015) provide for inseason action to modify the regulations that restrict retention of unmarked coho. The RA considered fishery effort, coho catch to date, and the non-mark-selective quota conversion implemented under inseason action #37, and determined that modifying the fishery to

allow retention of unmarked coho could be implemented within the allowable impacts on the constraining stock and without exceeding the non-mark-selective coho quota. Inseason action to modify limited retention regulations is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #38 occurred on September 17, 2015. Participants in this consultation were staff from NMFS, WDFW, and ODFW. Council staff was unavailable to participate in the consultation, but was advised of the RA's decision after the consultation concluded.

Inseason Action #39

Description of action: Inseason action #39 modified the open period in the commercial salmon fishery in the California KMZ from five days per week to seven days per week.

Effective dates: Inseason action #39 took effect on September 23, 2015, and remained in effect until the end of the 2015 commercial salmon fishery.

Reason and authorization for the action: During the preseason planning process, the open period for the commercial salmon fishery in the California KMZ, September 11 through September 30, was set at five days per week (Friday through Tuesday), to manage landings in this quota-based fishery. The RA considered fishery effort and Chinook landings to date, both of which were very low due to unfishable weather conditions and lack of productive fishing, and determined that allowing the fishery to remain open seven days per week would provide access to remaining Chinook quota without risk of exceeding the quota for the season. Modification of quotas and/or fishing seasons is authorized by 50 CFR 660.409(b)(1)(i).

Consultation date and participants: Consultation on inseason action #39 occurred on September 21, 2015. Participants in this consultation were staff from NMFS, Council, CDFW, and ODFW.

All other restrictions and regulations remain in effect as announced for the 2015 ocean salmon fisheries and 2016 salmon fisheries opening prior to May 1, 2016 (80 FR 25611, May 5, 2015) and as modified by prior inseason actions.

The RA determined that the best available information indicated that coho and Chinook salmon catch to date and fishery effort supported the above inseason actions recommended by the states of Washington, Oregon, and California. The states manage the fisheries in state waters adjacent to the areas of the U.S. exclusive economic zone in accordance with these Federal actions. As provided by the inseason notice procedures of 50 CFR 660.411, actual notice of the described regulatory actions was given, prior to the time the action was effective, by telephone hotline numbers 206-526-6667 and 800-662-9825, and by U.S. Coast Guard Notice to Mariners broadcasts on Channel 16 VHF-FM and 2182 kHz.

Classification

The Assistant Administrator for Fisheries, NOAA (AA), finds that good cause exists for this notification to be issued without affording prior notice and opportunity for public comment under 5 U.S.C. 553(b)(B) because such notification would be impracticable. As previously noted, actual notice of the regulatory actions was provided to fishers through telephone hotline and radio notification. These actions comply with the requirements of the annual management measures for ocean salmon fisheries (80 FR 25611, May 5, 2015), the West Coast Salmon Fishery Management Plan (Salmon FMP), and regulations implementing the Salmon FMP, 50 CFR 660.409 and 660.411. Prior notice and opportunity for public comment was impracticable because NMFS and the state agencies had insufficient time to provide for prior notice and the opportunity for public comment between the time Chinook salmon catch and effort assessments and projections were developed and fisheries impacts were calculated, and the time the fishery

modifications had to be implemented in order to ensure that fisheries are managed based on the best available scientific information, ensuring that conservation objectives and ESA consultation standards are not exceeded. The AA also finds good cause to waive the 30-day delay in effectiveness required under 5 U.S.C. 553(d)(3), as a delay in effectiveness of these actions would allow fishing at levels inconsistent with the goals of the Salmon FMP and the current management measures.

These actions are authorized by 50 CFR 660.409 and 660.411 and are exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: November 5, 2015

Emily H. Menashes,
Acting Director,
Office of Sustainable Fisheries,
National Marine Fisheries Service.

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